

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Indiana

United States of America

v.

ALEJANDRO BATANA

Defendant(s)

Case No.

1:19-mj-0933

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of September 4, 2019 in the county of Marion in the
Southern District of Indiana, the defendant(s) violated:

Code Section

18 U.S.C. § 1073

Offense Description

Unlawful Flight to Avoid Prosecution

This criminal complaint is based on these facts:

☒ Continued on the attached sheet.



Complainant's signature

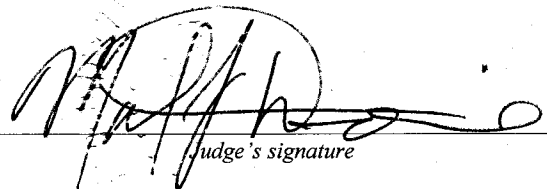
Gabriel A. Guerrero, Deputy U.S. Marshal, USMS

Printed name and title

Sworn to before me and signed in my presence.

Date: 10/08/2019

City and state: Indianapolis, IN



Judge's signature

Mark J. Dinsmore, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Gabriel Guerrero, Criminal Investigator Deputy United States Marshal, U.S. Department of Justice, United States Marshals Service (USMS), being duly sworn under oath, do hereby depose and state that:

1. I am a Deputy United States Marshal with the United States Marshals Service (USMS), United States Department of Justice. As such, I am an “investigative or law enforcement officer” within the meaning of Section 2510(7) of Title 18, United States Code; that is, an officer of the United States who is empowered by law to conduct investigations, and to make arrests. I have been employed by the USMS since approximately April 2010, and I am currently assigned to the USMS Great Lakes Regional Fugitive Task Force (GLRFTF) Indianapolis District Office, Indianapolis, Indiana. I was previously assigned to the Southern District of Indiana – Evansville Division from 2013 until 2015, and the Southern District of Texas – Laredo Division from 2010 until 2013.

2. This affidavit is being filed based on the personal knowledge and observations of the affiant and other law enforcement personnel. This affidavit is intended to support probable cause but it is not intended to convey all the facts of the investigation. Based on the information set forth in this affidavit, there is probable cause to believe that ALEJANDRO BATANA has committed the crime of Unlawful Flight to Avoid Prosecution, in violation of Title 18, United States Code, Section 1073.

3. On or about October 1st, 2018, the Indiana Department of Child Services (hereafter "DCS") case manager, Stacia Fields, assessed a case she had been assigned as a 310 DCS report after a Laura Fuhman, a Forensic Interviewer with the Child Advocacy Center in Indianapolis

filed a DCS Report due to disclosures by S.L. and her younger sister (hereafter "A.P."), also known to police. According to Furhman, S.L. and A.P. disclosed details of child molestation spanning between two (2) counties within the Southern District of Indiana, Hamilton County and Marion County, over the course of several years. According to Furhman, S.L. was the only victim who disclosed being molested in both counties. A.P. only disclosed being molested in Marion County.

4. S.L. disclosed that when she and her family lived in Fishers, Indiana, along with ALEJANDRO BATANA, BATANA sexually molested S.L. on at least two (2) occasions. These molestations took place in Fishers.

5. The first incident disclosed by S.L., took place when she was five (5) years old and S.L. described that she was raped and in her own words describe it as being "raped", "like forceful." S.L. was in her family's apartment in Fishers, and she was laying down during the "night time" in her mother's bedroom. According to S.L.'s disclosure, BATANA was standing beside the bed while S.L. was laying on her mother's bed, when BATANA began touching S.L.'s genitals (which S.L. circled on an anatomical drawing). BATANA is alleged to have stood between S.L.'s legs and his penis penetrated S.L.'s vagina, as S.L. further disclosed "inside the line" on the female anatomical drawing of the vagina (penis/vagina circled on anatomical drawing(s)). S.L. described being forcefully molested by BATANA because S.L. did not want to do it, and S.L. stated that it "hurt" when asked to describe any feeling.

6. The second incident disclosed by S.L., took place when S.L. was between six and seven years old. S.L. described this incident as taking place when it was daytime and at the same apartment in Fishers, Indiana. S.L. disclosed that this time, S.L. was in her room and recalls

ALEJANDRO BATANA "doing it to me from the back." S.L. explained that she was standing next to her bed and during this time, BATANA's private part was touching S.L.'s butt. S.L. disclosed that BATANA's private part was inside her butt and S.L. disclosed that it hurt (circled butt of anatomical drawing). When asked if BATANA's private part went inside the line of her butt or outside, she reported that it went inside her butt. S.L. detailed that she recalls this incident as BATANA going behind her because she had just gotten out of the shower and she had a bathrobe on and BATANA only had a towel on. According to S.L., BATANA lifted-up her robe from behind her and put his private part inside her butt. S.L. reported that her mom was coming home, and her mom was outside the apartment which S.L. believes caused BATANA to stop. S.L. disclosed that BATANA told her "don't say anything."

7. During the course of this investigation in conjunction with Indianapolis Metropolitan Police Department (IMPD) Detective Nicole Flynn, it was discovered that while S.L. and A.P. lived with BATANA in Marion County between S.L. being nine (9) to eleven (11) years old, BATANA "did it" to S.L. every day, disclosing that BATANA was sexually molesting S.L. in Marion County for almost three (3) years. The time frame disclosed by S.L. was validated through speaking with her mother, Amy Harrington, who would later explain that for those three (3) years, the girls lived with BATANA while she fought for legal custody of her daughters S.L., A.P., and her youngest daughter and biological daughter of BATANA (hereafter D3), but they lived with BATANA in Marion County during that time frame. S.L. further disclosed in the forensic interview, "I lived with him for three years, he did it to me every night when my friends were not there." A.P. would later also disclose that she too, was the victim of sexual molestation by BATANA in Marion County, Indiana.

8. Through further investigation, Fisher Police Department (FPD) Detectives and IMPD Detectives were able to develop probable cause to believe that BATANA knowingly and intentionally sexually molested S.L. over several years of her young life between Hamilton and Marion Counties in Indiana. IMPD Detective Flynn was also able to develop probable cause to believe that BATANA knowingly and intentionally sexually molested A.P. while in Marion County.

9. On October 23, 2018, IMPD and FPD Detectives located BATANA at his Indianapolis home on the 5200 block of Brookville Road. During this encounter, BATANA did not immediately comply with Detectives and was detained and transported to IMPD for questioning. During the *Miranda* review of his rights, BATANA requested an attorney and he was placed under arrest by IMPD and charged with two counts of Child Molestation through Marion County.

10. During the course of finalizing this investigation, details arose that S.L. had shared with a juvenile friend of hers what BATANA had done to her and her sister. That friend was later confirmed to have confronted BATANA just days prior to IMPD and FPD taking BATANA into custody. Suspicions arose that BATANA could possibly flee from Indiana, and Amy Harrington shared her belief with law enforcement that BATANA would return to Puebla, Mexico, where BATANA is from and where his family resides.

11. FPD Detective Rodriguez contacted U.S. Immigration and Customs Enforcement ("ICE") in hopes of placing an ICE hold on BATANA while he was in the Marion County Jail, to allow this Detective Rodriguez time to apply for an arrest warrant. ICE confirmed on October 23rd, 2018, that BATANA had been placed on an ICE hold.

12. On October 29th, 2018, FPD Detective Rodriguez learned that Marion County Jail did not honor the ICE hold previously requested and that BATANA was allowed to bond out of Marion County jail. According to the information later provided, it appeared as though BATANA bonded out on October 26, 2018, and no alert or notification was issued to ICE, FPD or IMPD.

13. On November 1, 2018, FPD Detective Rodriguez learned that BATANA had left a letter explaining that he had reasons to flee and that he had been wrongfully accused. Pursuant to the investigation and contact with witnesses and relatives of BATANA, law enforcement authorities determined that BATANA had fled the State of Indiana to stay with his father in Tehuacan Puebla, Mexico, or is hiding at a property located in Fraccionamiento Rancho Viejo, Mexico.

14. On or about November 9, 2018, Fisher Police Detective Cesar Rodriguez obtained an arrest warrant out of the Hamilton County Superior Court for BATANA for Child Molestation.

15. On or about November 21, 2018, Fishers Police Department Detective Cesar Rodriguez requested the assistance of Deputy United States Marshal Gabriel Guerrero with the USMS with locating and arresting BATANA in Mexico.

16. On September 4, 2019, Deputy U.S. Marshal Guerrero notified FPD Detective Rodriguez that elements in Puebla had positively identified ALEJANDRO BATANA as being in Puebla, Mexico, at a location known to authorities.

17. Based on the information described above, there is probable cause to believe that ALEJANDRO BATANA has traveled in interstate and/or foreign commerce in order to avoid

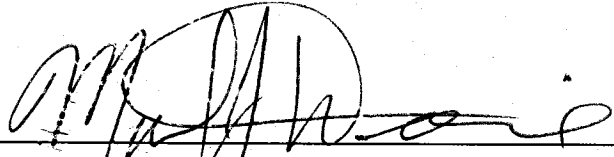
prosecution for crimes committed in the State of Indiana in violation of Title 18, United States Code, Section 1073.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

A handwritten signature in black ink, appearing to read 'Gabriel A. Guerrero', written over a horizontal line.

Gabriel A. Guerrero
Deputy U.S. Marshal
United States Marshals Service

Signed and sworn before me this **8th day of October, 2019**.

A handwritten signature in black ink, appearing to read 'Mark J. Dinsmore', written over a horizontal line.

MARK J. DINSMORE
United States Magistrate Judge